



City of Loma Linda Official Report

Floyd Petersen, Mayor
Stan Brauer, Mayor pro tempore
Robert Christman, Councilmember
Robert Ziprick, Councilmember
Charles Umeda, Councilmember

COUNCIL AGENDA: March 14, 2006

TO: City Council

VIA: Dennis R. Halloway, City Manager

FROM: Pamela Byrnes-O'Camb, City Clerk/Agency Secretary *pbo*

SUBJECT: Joint Public hearing of the City Council and Redevelopment Agency regarding the sale of property known as APN 0293-021-19, west of the abandoned portion of Main Street in Bryn Mawr, to the LaLoma Credit Union

RECOMMENDATION

It is recommended that the Agency Board adopt CRA Bill #R-2006-07 approving the Disposition and Development Agreement, and that the City Council adopt Council Bill #R-2006-13, consenting to the Disposition and Development Agreement.

BACKGROUND

The Redevelopment Agency purchased the subject site by way of a County Tax Sale for \$1,246.40 (property tax and administrative costs of legal notices) to possibly provide affordable housing. The subject lot is 3,900 square feet and is considered blighted in that it is unimproved and plagued with trash dumping due to its remoteness.

The LaLoma Credit Union acquired adjacent parcels for the purpose of constructing a new credit union facility to replace its Anderson Street operation and has offered to purchase the subject property to enhance its development. The sales price of \$14,000 has been accepted.

ANALYSIS

Sale of the site and improvements will be privately finance and will benefit the Project Area. The on-going elimination of blight and the use of the net sales proceeds in the Agency's efforts to provide low-to-moderate income housing furthers the implementation of the Redevelopment Plan. The Covenants, Conditions and Restrictions will allow the Site to be developed pursuant to local land use regulations and in a manner complementary to the development of the adjacent property owned by the LaLoma Credit Union. The sale of the site is not less than the fair re-use value

ENVIRONMENTAL

Not applicable to the Agreement.

FINANCIAL IMPACT

The Agency will receive approximately \$9,250 over its cost for deposit into the Agency's Low-to-Moderate Income Housing Fund to be used to provide decent, safe and sanitary housing for low-to-moderate income households.

Attachments: CRA Bill #R-2006-07
Council Bill #R-2006-13
Site Map
Agreement

RESOLUTION NO. _____

A RESOLUTION OF THE LOMA LINDA REDEVELOPMENT
AGENCY APPROVING A DISPOSITION AND DEVELOPMENT
AGREEMENT BY AND BETWEEN THE AGENCY AND THE LA
LOMA FEDERAL CREDIT UNION

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") is charged with implementing the Redevelopment Plan (the "Redevelopment Plan") as adopted for the Loma Linda Redevelopment Project; and

WHEREAS, the Agency has adopted an implementation plan ("Implementation Plan") in the course of implementing the Redevelopment Plan; and

WHEREAS, the Agency is authorized to convey land under Sections 33431 and 33433 of the Health and Safety Code in furtherance of the implementation of the Redevelopment Plan; and

WHEREAS, the La Loma Federal Credit Union (the "Developer") has proposed to acquire certain land located at APN 0293-021-19, westerly of the abandoned portion of Main Street, Bryn Mawr (the "Site") and to develop improvements thereon (the "Project"), all as more particularly set forth in a draft disposition and development agreement as on file with the Agency Secretary (the "Agreement"); and

WHEREAS, in order to carry out and implement the Redevelopment Plan for the Agency's redevelopment project, the Agency proposes to enter into the Agreement with the Developer, pursuant to which the Agency would convey the Site to the Developer and the Developer would make those improvements (the "Improvements") described in the Agreement; and

WHEREAS, the Project is located within the project area of the Loma Linda Redevelopment Project (the "Project Area" and the "Redevelopment Project", respectively) and the acquisition, construction and operation of the Project pursuant to the Agreement would benefit the Project Area by implementing the consolidation of an undevelopable remnant piece with a larger, existing parcel and by providing for improvements within the Project Area. The Agreement will also generate a surplus of revenues (in excess of the Agency's acquisition costs for the Site) for the benefit of the Agency's Low- and Moderate-Income Housing Fund; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed Agreement and believes that the Agreement is in the best interests of the Agency and the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable State and local law requirements; and

WHEREAS, under the Agreement, the Developer shall receive conveyance of the Site from the Agency upon payment of a cash purchase price as more particularly described in the summary report made in accordance with Section 33433 of the California Health and Safety Code (the "Report"); and

WHEREAS, the Developer has submitted to the Agency and the City Council of the City of Loma Linda (the "City Council") copies of the Agreement substantially in the form submitted herewith; and

WHEREAS, in view of all of the restrictions, limitations and requirements under the Agreement, the purchase price to be received by the Agency under the Agreement is not less than the fair value of the Site or the fair market value of the Site, as reflected under advice of an independent appraiser which is on file with the Agency; and

WHEREAS, pursuant to Section 33433 of the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), the Agency is authorized, with the approval of the City Council after a duly noticed public hearing, to sell the Site pursuant to the Redevelopment Plan upon a determination by the City Council that the such sale of the Site will either assist in the elimination of blight, that the consideration for such sale is not less than the fair market value or fair reuse value of the Site in accordance with the covenants and conditions governing the sale of the Site and improvement costs required thereof, as well as the particular uses to be conducted by the Developer at the Site, and that the sale under the terms and conditions set forth in the Agreement is consistent with the implementation plan which has been adopted by the Agency for the Redevelopment Project (the "Implementation Plan"); and

WHEREAS, a joint public hearing of the Agency and City Council on the proposed Agreement was duly noticed in accordance with the requirements of Health and Safety Code Sections 33431 and 33433; and

WHEREAS, the proposed Agreement, and a summary report meeting the requirements of Health and Safety Code Section 33433, were available for public inspection prior to the joint public hearing consistent with the requirements of Health and Safety Code Section 33433; and

WHEREAS, on March 14, 2006, the Agency and City Council held a joint public hearing on the proposed Agreement, at which time the City Council and the Agency reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing; and

WHEREAS, all actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the Agency has reviewed the summary required pursuant to Health and Safety Code Section 33433 and evaluated other information provided to it pertaining to the findings required pursuant to Health and Safety Code Section 33433; and

WHEREAS, the City Council has previously determined, in its adoption of the ordinance approving the Redevelopment Project, that the Site is a portion of a blighted area, and is underutilized, as further set forth in the Implementation Plan as previously adopted and amended by the Agency; and

WHEREAS, the Agreement would assist in the alleviation or removal of blighting conditions and would further the goals of the Implementation Plan by providing for the provision of improvements and the operation of certain uses as provided in the Agreement; and

WHEREAS, the Agency and the City Council have duly considered all of the terms and conditions of the proposed Agreement and believes that the redevelopment of the Site pursuant to the Agreement is in the best interests of the City of Loma Linda and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, THE LOMA LINDA REDEVELOPMENT AGENCY DOES RESOLVE AS FOLLOWS:

Section 1. The Agency finds and determines that, based upon substantial evidence provided in the record before it, the consideration for the Agency's disposition of the Site pursuant to the terms and conditions of the Agreement is: (i) not less than the fair market value at the highest and best use in accordance with the Redevelopment Plan, and (ii) not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Agreement.

Section 2. The Agency hereby finds and determines that the disposition of the Site by the Agency pursuant to the Agreement will eliminate blight within the Project Area by contributing to consolidation of an undevelopable remnant with a larger parcel, promoting improvements, by providing funding to the Agency's Low- and Moderate-Income Housing Fund and providing for the proper reuse and redevelopment of a portion of the Project Area which was declared blighted.

Section 3. The Agency hereby finds and determines that the Agreement is consistent with the provisions and goals of the Implementation Plan.

Section 4. The Executive Director of the Agency (or his designee) is hereby authorized, on behalf of the Agency, to make revisions to the Agreement which do not materially or substantially increase the Agency's obligations thereunder or materially or substantially change the uses or development permitted on the Site, to sign all documents, to make all approvals and take all actions necessary or appropriate to carry out and implement the Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under the Agreement and related documents.

APPROVED AND ADOPTED this 14th day of March 2006 by the following vote.

Ayes:

Noes:

Absent:

Robert Ziprick, Chairman

ATTEST:

Pamela Byrnes-O'Camb, Secretary

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
LOMA LINDA CONSENTING TO THE APPROVAL BY THE
LOMA LINDA REDEVELOPMENT AGENCY APPROVING A
DISPOSITION AND DEVELOPMENT AGREEMENT BY AND
BETWEEN THE AGENCY AND THE LA LOMA FEDERAL
CREDIT UNION

WHEREAS, the Loma Linda Redevelopment Agency (the "Agency") is charged with implementing the Redevelopment Plan (the "Redevelopment Plan") as adopted for the Loma Linda Redevelopment Project; and

WHEREAS, the Agency has adopted an implementation plan ("Implementation Plan") in the course of implementing the Redevelopment Plan; and

WHEREAS, the Agency is authorized to convey land under Sections 33431 and 33433 of the Health and Safety Code in furtherance of the implementation of the Redevelopment Plan; and

WHEREAS, the La Loma Federal Credit Union (the "Developer") has proposed to acquire certain land located at APN 0293-021-19, westerly of the abandoned portion of Main Street, Bryn Mawr (the "Site") and to develop improvements thereon (the "Project"), all as more particularly set forth in a draft disposition and development agreement as on file with the Agency Secretary (the "Agreement"); and

WHEREAS, in order to carry out and implement the Redevelopment Plan for the Agency's redevelopment project, the Agency proposes to enter into the Agreement with the Developer, pursuant to which the Agency would convey the Site to the Developer and the Developer would make those improvements (the "Improvements") described in the Agreement; and

WHEREAS, the Project is located within the project area of the Loma Linda Redevelopment Project (the "Project Area" and the "Redevelopment Project", respectively) and the acquisition, construction and operation of the Project pursuant to the Agreement would benefit the Project Area by implementing the consolidation of an undevelopable remnant piece with a larger, existing parcel and by providing for improvements within the Project Area. The Agreement will also generate a surplus of revenues (in excess of the Agency's acquisition costs for the Site) for the benefit of the Agency's Low- and Moderate-Income Housing Fund; and

WHEREAS, the Agency has duly considered all terms and conditions of the proposed Agreement and believes that the Agreement is in the best interests of the Agency and the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable State and local law requirements; and

WHEREAS, under the Agreement, the Developer shall receive conveyance of the Site from the Agency upon payment of a cash purchase price as more particularly described in the summary report made in accordance with Section 33433 of the California Health and Safety Code (the "Report"); and

WHEREAS, the Developer has submitted to the Agency and the City Council of the City of Loma Linda (the "City Council") copies of the Agreement substantially in the form submitted herewith; and

WHEREAS, in view of all of the restrictions, limitations and requirements under the Agreement, the purchase price to be received by the Agency under the Agreement is not less than the fair value of the Site or the fair market value of the Site, as reflected under advice of an independent appraiser which is on file with the Agency; and

WHEREAS, pursuant to Section 33433 of the Community Redevelopment Law (California Health and Safety Code Section 33000, et seq.), the Agency is authorized, with the approval of the City Council after a duly noticed public hearing, to sell the Site pursuant to the Redevelopment Plan upon a determination by the City Council that the such sale of the Site will either assist in the elimination of blight, that the consideration for such sale is not less than the fair market value or fair reuse value of the Site in accordance with the covenants and conditions governing the sale of the Site and improvement costs required thereof, as well as the particular uses to be conducted by the Developer at the Site, and that the sale under the terms and conditions set forth in the Agreement is consistent with the implementation plan which has been adopted by the Agency for the Redevelopment Project (the "Implementation Plan"); and

WHEREAS, a joint public hearing of the Agency and City Council on the proposed Agreement was duly noticed in accordance with the requirements of Health and Safety Code Sections 33431 and 33433; and

WHEREAS, the proposed Agreement, and a summary report meeting the requirements of Health and Safety Code Section 33433, were available for public inspection prior to the joint public hearing consistent with the requirements of Health and Safety Code Section 33433; and

WHEREAS, on March 14, 2006, the Agency and City Council held a joint public hearing on the proposed Agreement, at which time the City Council and the Agency reviewed and evaluated all of the information, testimony, and evidence presented during the joint public hearing; and

WHEREAS, all actions required by all applicable law with respect to the proposed Agreement have been taken in an appropriate and timely manner; and

WHEREAS, the Agency has reviewed the summary required pursuant to Health and Safety Code Section 33433 and evaluated other information provided to it pertaining to the findings required pursuant to Health and Safety Code Section 33433; and

WHEREAS, the City Council has previously determined, in its adoption of the ordinance approving the Redevelopment Project, that the Site is a portion of a blighted area, and is underutilized, as further set forth in the Implementation Plan as previously adopted and amended by the Agency; and

WHEREAS, the Agreement would assist in the alleviation or removal of blighting conditions and would further the goals of the Implementation Plan by providing for the provision of improvements and the operation of certain uses as provided in the Agreement; and

WHEREAS, the Agency and the City Council have duly considered all of the terms and conditions of the proposed Agreement and believes that the redevelopment of the Site pursuant to the Agreement is in the best interests of the City of Loma Linda and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws and requirements.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOMA LINDA DOES RESOLVE AS FOLLOWS:

Section 1. The City Council finds and determines that, based upon substantial evidence provided in the record before it, the consideration for the Agency's disposition of the Site pursuant to the terms and conditions of the Agreement is: (i) not less than the fair market value at the highest and best use in accordance with the Redevelopment Plan, and (ii) not less than the fair reuse value at the use and with the covenants and conditions and development costs authorized by the Agreement.

Section 2. The City Council hereby finds and determines that the disposition of the Site by the Agency pursuant to the Agreement will eliminate blight within the Project Area by contributing to consolidation of an undevelopable remnant with a larger parcel, promoting improvements, by providing funding to the Agency's Low- and Moderate-Income Housing Fund and providing for the proper reuse and redevelopment of a portion of the Project Area which was declared blighted.

Section 3. The City Council hereby finds and determines that the Agreement is consistent with the provisions and goals of the Implementation Plan.

Section 4. The City Council consents to the execution and implementation of the Agreement by the Agency. The City Council further consents that the Executive Director of the Agency (or his designee), on behalf of and as authorized by the Agency, to make revisions to the Agreement which do not materially or substantially increase the Agency's obligations thereunder or materially or substantially change the uses or development permitted on the Site, to sign all documents, to make all approvals and take all actions necessary or appropriate to carry out and implement the Agreement and to administer the Agency's obligations, responsibilities and duties to be performed under the Agreement and related documents.

APPROVED AND ADOPTED this 14th day of March 2006 by the following vote:

Ayes:
Noes:
Absent:

Floyd Petersen, Mayor

ATTEST:

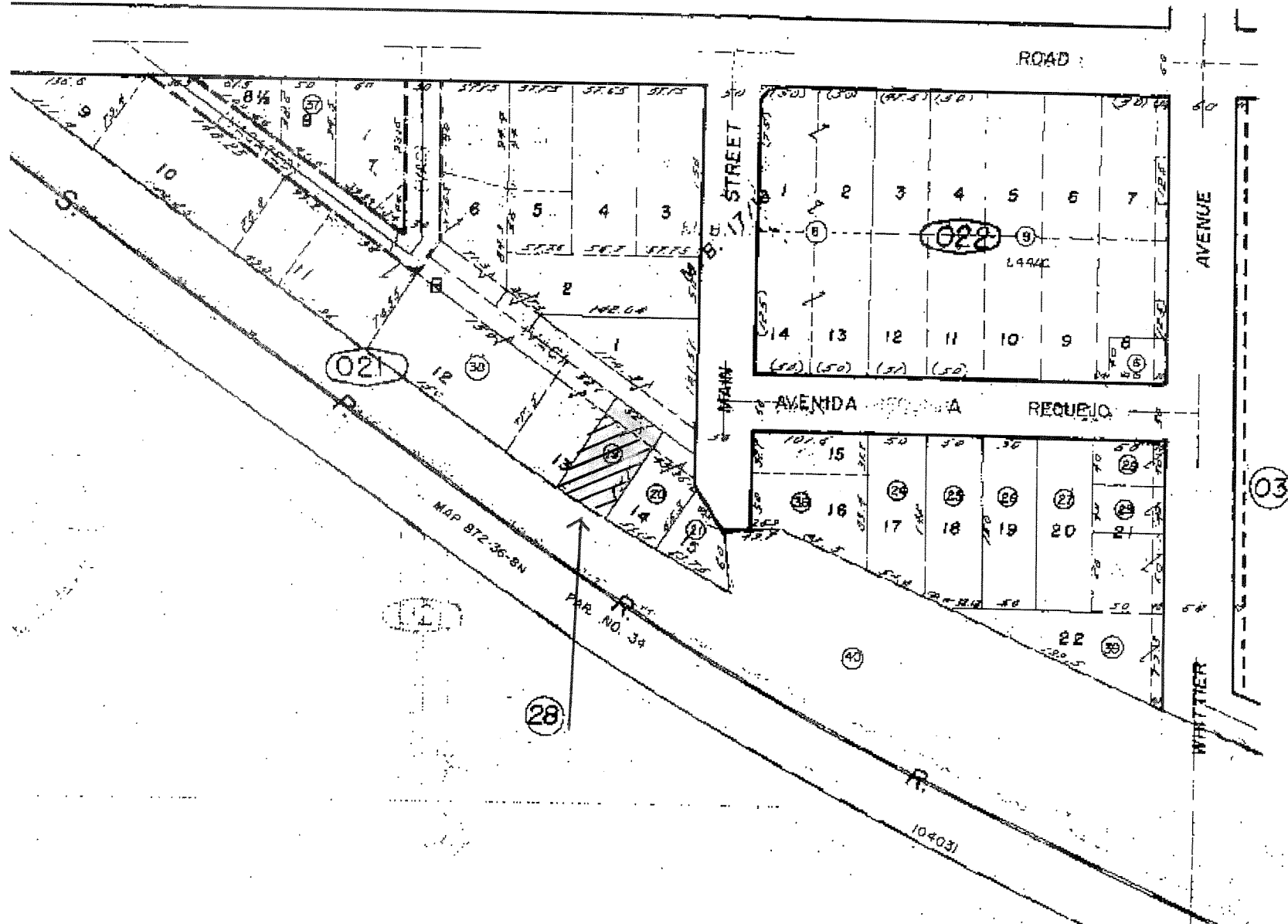
Pamela Byrnes-O'Camb, City Clerk

Por. Mayberry & Whittier Sub., M.B. 12/19
Taylor & Break Sub. M.B. 17/16

Redlands Unified
Tax Rate Area
104031, 104092

293-02

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DISPOSITION AND DEVELOPMENT AGREEMENT

By and Between the

LOMA LINDA REDEVELOPMENT AGENCY

and

LA LOMA FEDERAL CREDIT UNION

a California corporation

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Attachment No. 1	Combined Site Map
Attachment No. 2	Site Legal Description
Attachment No. 3	Agency Deed
Attachment No. 4	Scope of Development
Attachment No. 5	Schedule of Performance
Attachment No. 6	Certificate of Completion
Attachment No. 7	Covenants, Conditions and Restrictions

DISPOSITION AND DEVELOPMENT AGREEMENT

This **DISPOSITION AND DEVELOPMENT AGREEMENT** (the "Agreement") is entered into as of _____, 2006, by and between the **LOMA LINDA REDEVELOPMENT AGENCY**, a public body, corporate and politic (the "Agency"), and **LA LOMA FEDERAL CREDIT UNION**, a California corporation (the "Developer").

RECITALS

The following recitals are a substantive part of this Agreement:

A. In furtherance of the objectives of the Community Redevelopment Law of the State of California, Health and Safety Code Section 33000, *et seq.* (the "Act"), the Agency and the Developer desire that certain real property within the Project Area of the Loma Linda Redevelopment Project defined herein as the "Site" be developed as part of adjacent property (the "Developer Property" and, together with the "Site", the "Combined Site") in a manner conforming with the Redevelopment Plan and applicable laws.

B. The conveyance of the Site to the Developer and the development of the Site under this Agreement are in the vital and best interest of the City and the health, safety, and welfare of its residents, and in accord with the public purposes and provisions of applicable state and local laws.

NOW, THEREFORE, the Agency and the Developer hereby agree as follows:

100. DEFINITIONS.

"Act" means the Community Redevelopment Law of the State of California, Health and Safety Code Section 33000, *et seq.*

"Adverse Litigation" means any litigation (including without limitation the filing of a claim) concerning (i) the Agreement, (ii) the subject matter of the Agreement, or (iii) the land use approvals, zoning classifications, or environmental process with respect to the Site, the Agreement, or the activities to be undertaken by the Developer under the Agreement, which, in the opinion of Developer or Agency, will have a material adverse effect on the ability of either party to perform their obligations under this Agreement or to realize the intended benefits of this Agreement.

"Agency" means the Loma Linda Redevelopment Agency, a public body, corporate and politic, exercising governmental functions and powers and organized and existing under the Community Redevelopment Law of the State of California, and any assignee of or successor to its rights, powers and responsibilities.

"Agency's Conditions Precedent" means the conditions precedent to the obligation of the Agency to execute and deliver the Agency Deed, as set forth in Section 205.1 hereof.

"Agency Deed" means the grant deed for conveyance of the Site which is attached hereto as Attachment No. 3.

"Agency Escrow" means an escrow to be established pursuant to Section 202 hereof for the conveyance of the Site by the Agency to the Developer.

"Agreement" means this Disposition and Development Agreement by and between the Agency and the Developer.

"Applicable Interest Rate" means the lesser of ten percent (10%) simple interest per annum or the highest non-usurious rate that may be charged by a redevelopment agency.

"Best Knowledge" is defined in Section 208.1 hereof.

"Certificate of Completion" means a certificate in the form of Attachment No. 6 hereto executed by the Executive Director following completion of the Improvements.

"City" means the City of Loma Linda, a municipal corporation.

"Closing" means the recordation of the Agency Deed.

"Combined Site" means the Site and the Developer Property.

"Combined Site Map" means Attachment No. 1 to this Agreement.

"Condition of Title" is defined in Section 203 hereof.

"Conforming Activities" means the operation of a credit union, including the origination or processing of loans and handling of deposits, together with parking and related facilities, or other uses as allowed from time to time under the Redevelopment Plan and City zoning enactments, but in any event excepting the following: adult uses; coin operated laundry; governmental offices except with the prior written approval of the Agency; arcade; casino; card clubs.

"County" shall mean the County of San Bernardino, California.

"Covenant Period" means that period commencing as of the Date of Agreement and continuing until May 12, 2028.

"Covenants, Conditions and Restrictions", "CC&Rs" or "Regulatory Agreement" means Attachment No. 7 to this Agreement.

"Date of Agreement" means the date first above written [which shall be the date this Agreement is approved by the Agency].

"Default" means the failure of a party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and opportunity to cure, as set forth in Section 601 hereof.

"Determination Date" means the thirtieth (30th) day following the Date of Agreement.

"Developer" means La Loma Federal Credit Union, a California corporation.

"Developer Property" means that property so delineated in the Map of the Combined Site.

"Developer's Conditions to Closing" is as set forth in Section 205.2.

"Escrow Holder" means Alliance Title Company or another mutually satisfactory escrow holder.

"Executive Director" is the Agency or his designee.

"Environmental Consultant" means the environmental consultant which may be employed by the Developer pursuant to Section 208.2 hereof.

"Escrow Holder" means Alliance Title Insurance Company or another mutually acceptable escrow holder.

"Exceptions" means the exceptions to Title, as set forth in Section 203 hereof.

"Executive Director" means the Executive Director of the Agency or his designee.

"Governmental Requirements" means all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the state, the County, the City, or any other political subdivision in which the Site is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over the Developer or the Site.

"Hazardous Materials" means any substance, material, or waste which is or becomes regulated by any local governmental authority, the County, the State of California, regional governmental authority, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a "hazardous waste," "extremely hazardous waste," or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140 of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law), (ii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act), (iii) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Section 25501 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory), (iv) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances), (v) petroleum, (vi) friable asbestos, (vii) polychlorinated biphenyls, (viii) listed under Article 9 or defined as "hazardous" or "extremely hazardous" pursuant to Article 11 of Title 22 of the California Administrative Code, Division 4, Chapter 20, (ix) designated as "hazardous substances" pursuant to Section 311 of the Clean Water Act (33 U.S.C. §1317), (x) defined as a "hazardous waste" pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. §6901 et seq. (42 U.S.C. §6903) or (xi) defined as "hazardous substances" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §6901 et seq.

"Improvements" means all improvements required by this Agreement to be accomplished by the Developer, as more fully described in the Scope of Development.

"Materially Adverse Conditions" are surface or subsurface conditions of the Site which: (i) are not apparent from a visual inspection of the surface of the Site; and (ii) (a) include the presence of Hazardous Materials at the Site in excess of currently applicable levels permitted under federal or state law, or (b) include the presence of conditions not typically found in properties within

the City and which a mutually acceptable independent third party geotechnical firm retained by Developer estimates will increase development costs by over Fifty Thousand Dollars (\$50,000.00).

"Notice" shall mean a notice in the form prescribed by Section 601 hereof.

"Project Area" means that area designated as the project area in the Redevelopment Plan.

"Purchase Price" means the amount of Fourteen Thousand Dollars (\$14,000.00).

"Redevelopment Law" means the Community Redevelopment Law as set forth at Section 33000 *et seq.* of the California Health and Safety Code.

"Redevelopment Plan" means the Redevelopment Plan for the Redevelopment Project, adopted by ordinance of the City Council of the City of Loma Linda, as amended from time to time.

"Redevelopment Project" means the Loma Linda Redevelopment Project, as described in the Redevelopment Plan.

"Schedule of Performance" means Attachment No. 5 hereto.

"Scope of Development" means Attachment No. 4 hereto.

"Site" means that certain real property which is described in the Site Legal Description and so delineated on the Combined Site Map.

"Site Legal Description" means the description of the Site which is attached hereto as Attachment No. 2 hereto.

"Studies" means the studies and investigations which are conducted pursuant to Section 207 hereof.

"Title Company" means Alliance Title Insurance Company or another mutually acceptable title insurer.

"Title Policy" means the owner's policy of title insurance to be provided to the Developer, as set forth in Section 204 hereof.

"Title Report" means the preliminary title report for the Site, as described in Section 203 hereof.

"Year" means that three hundred sixty five (365) day period commencing as of the Date of Commencement, and each succeeding three hundred sixty five (365) day, or for leap years three hundred sixty six (366) day periods, ending the day prior to the anniversary of the Date of Commencement.

200. CONVEYANCE OF SITE

201. **Site Conveyance.** The Developer agrees to purchase the Site from the Agency, and the Agency agrees to sell the Site to the Developer, in accordance with and subject to the satisfaction of the Agency's Conditions Precedent and all of the terms, covenants, and conditions of this

Agreement, for the sum of Fourteen Thousand Dollars (\$14,000.00) (the "Purchase Price"). Payment of the Purchase Price represents the agreed upon value of the Site based upon its fair market value at its highest and best use. The Purchase Price and Developer's share of closing costs shall be payable into the Agency Escrow of cash or immediately available funds. The CC&Rs shall be recorded immediately upon recordation of the Agency Deed.

202. **Escrow.** Within fifteen (15) days after the Date of Agreement, the Agency shall open escrow ("Escrow") with Escrow Holder for the conveyance of the Site by the Agency to the Developer.

202.1 **Costs of Escrow.** Agency and Developer shall pay their respective portions of the premium for the Title Policy as set forth in Section 204 hereof, the Agency shall pay for the documentary transfer taxes due with respect to the conveyance of the Site, and Developer and Agency each agree to pay one-half of all other usual fees, charges, and costs which arise from the Agency Escrow.

202.2 **Escrow Instructions.** This Agreement constitutes the joint escrow instructions of Developer and Agency, and the Escrow Holder to whom these instructions are delivered is hereby empowered to act under this Agreement. The parties hereto agree to do all acts reasonably necessary to facilitate the timely closing of the Agency Escrow. Insurance policies for fire or casualty are not to be transferred, and Agency will cancel its own policies after the Closing. All funds received in the Agency Escrow shall be deposited with other escrow funds in a general escrow account(s) and may be transferred to any other such escrow trust account in any State or National Bank doing business in the State. All disbursements shall be made by check from such account.

The Escrow Holder shall release Agency's escrow closing statement to the Agency and Developer's escrow closing statement to the Developer.

202.3 **Authority of Escrow Holder.** Escrow Holder is authorized to, and shall:

(a) Pay and charge the Developer and the Agency for their respective shares of the premium of the Title Policy and any endorsements thereto as set forth in Section 204 and any amount necessary to place title in the condition necessary to satisfy Section 203 of this Agreement.

(b) Pay and charge Developer and Agency for their respective shares of any escrow fees, charges, and costs payable under Section 202.1 of this Agreement.

(c) Disburse funds and deliver and record the Agency Deed when both the Developer's Conditions Precedent and the Agency's Conditions Precedent have been fulfilled or waived by Developer and Agency.

(d) Do such other actions as necessary, including, without limitation, obtaining the Title Policy, to fulfill its obligations under this Agreement.

(e) Within the discretion of Escrow Holder, direct the Developer to execute and deliver any instrument, affidavit, and statement, and to perform any act reasonably necessary to comply with the provisions of FIRPTA and any similar state act and regulation promulgated thereunder. Agency agrees to execute a Certificate of Non-Foreign Status by individual transferor and/or a Certification

of Compliance with Real Estate Reporting Requirement of the 1986 Tax Reform Act as may be required by Escrow Holder, on the form to be supplied by Escrow Holder.

(f) Prepare and file with all appropriate governmental or taxing authorities a uniform settlement statement, closing statement, tax withholding forms including an IRS 1099-S form, and be responsible for withholding taxes, if any such forms are provided for or required by law.

202.4 Termination of Agency Escrow. If (except for deposit of money by Developer, which shall be made by Developer before the Closing) the Agency Escrow is not in condition to close by the time set forth in this Agreement for the Closing, then either party which has fully performed under this Agreement may, in writing, demand the return of money or property and terminate the Agency Escrow. If either party makes a written demand for return of documents or properties, the Agency Escrow shall not terminate until five (5) days after Escrow Holder shall have delivered copies of such demand to all other parties at the respective addresses shown in this Agreement. If any objections are raised within said five (5) day period, Escrow Holder is authorized to hold all papers and documents until instructed by a court of competent jurisdiction or by mutual written instructions of the parties. Developer, however, shall have the sole option to withdraw any money deposited by it with respect to the Closing less Developer's share of costs of the Agency Escrow. Termination of the Agency Escrow shall be without prejudice as to whatever legal rights either party may have against the other arising from this Agreement. If no demands are made and the Escrow Holder is not otherwise instructed by the Agency, the Escrow Holder shall proceed with the Closing as soon as possible.

202.5 Closing Procedure. Escrow Agent shall close Agency Escrow as follows:

- (a) Deliver the Purchase Price to the Agency;
- (b) Record the Agency Deed and immediately thereafter the CC&Rs with instructions for the County Recorder to deliver the Agency Deed and the CC&Rs to Agency and a certified copy of each to the Developer;
- (c) Instruct the Title Company to deliver the Title Policy to the Developer;
- (d) File any informational reports required by Internal Revenue Code Section 6045(e), as amended, and any other applicable requirements; and
- (e) Deliver the FIRPTA Certificate, if any, to the Developer; and
- (f) Forward to both the Developer and the Agency a separate accounting of all funds received and disbursed for each party and copies of all executed and recorded or filed documents deposited into the Agency Escrow, with such recording and filing date and information endorsed thereon.

203. Review of Title; Site Due Diligence. Within the time set forth in the Schedule of Performance, Agency shall cause the Title Company to deliver to Developer a standard preliminary title report (the "Title Report") with respect to the Site, together with legible copies of the documents underlying the exceptions ("Exceptions") set forth in the Title Report. Developer shall have the right to reasonably approve or disapprove the Exceptions within the time period set forth below, provided, however, that the Developer herein approves the Redevelopment Plan as an Exception.

Developer shall have thirty (30) calendar days from the date of receipt of the Title Report pursuant to this Section 203 to give written notice to Agency of Developer's approval or disapproval of any of such Exceptions. Developer's failure to give written approval of the Title Report received by Agency within such time limit shall be deemed to constitute approval of the Title Report, provided that the Agency has given the Developer (during or at the end of the thirty (30) day period commencing with receipt of the title report) notice of an additional seven (7) calendar days from the later of the end of such thirty (30) day period or the mailing or delivery of such notice. If Developer notifies Agency of its disapproval of any Exceptions in the Title Report, Agency shall have the right, but not the obligation, to remove any disapproved Exceptions within thirty (30) calendar days after receiving written notice of Developer's disapproval or provide assurances satisfactory to Developer that such Exception(s) will be removed on or before the Closing. If Agency cannot or in its sole discretion does not elect to remove any of the disapproved Exceptions within that period, Developer shall have fifteen (15) calendar days after the expiration of such thirty (30) calendar day period to either give Agency written notice that Developer elects to accept conveyance of the Site and proceed with the development of the Site subject to the disapproved Exceptions or to give Agency written notice that the Developer elects to terminate this Agreement. The Exceptions to title approved by Developer as provided herein shall hereinafter be referred to as the "Condition of Title."

203.1 **Materially Adverse Conditions.** Based upon its preliminary review, the Developer believes that the Site is suitable for the development and use provided under this Agreement, excepting as to the possible presence of Materially Adverse Conditions as to which Developer has not undertaken investigation. The Developer shall, within thirty (30) days of the Date of Agreement, be entitled to conduct such evaluation, inspections, tests or investigation as to the Site, including on-site testing, as it deems necessary or appropriate. On or before the Determination Date, the Developer shall notify the Agency to the following effect: (i) that the Developer has determined that there are not Materially Adverse Conditions on the Site, or (ii) that there are Materially Adverse Conditions on the Site and the Developer elects to terminate pursuant to Section 603(iv) hereof unless the Agency and the Developer agree, within (15) days following the date such notice is received by the Agency to otherwise resolve such conditions.

204. **Title Insurance.** Concurrently with and as a condition to Closing, there shall be issued to Developer a California Land Title Association ("CLTA") form policy of title insurance (the "Title Policy") in the amount of the Purchase Price which insures the Developer's interest in the Site, together with such endorsements as are reasonably requested by the Developer, issued by the Title Company, insuring that, upon recordation of the Agency Deed, title to the Site is held by the Developer in the condition required by Section 203 of this Agreement. The Title Company shall provide Agency with a copy of the Title Policy. Agency agrees to remove on or before Closing any deeds of trust against the Site. Agency shall pay that portion of the premium for the Title Policy equal to the cost of a CLTA standard coverage title policy in the amount of the Purchase Price. Any additional costs, including the incremental additional cost of an owner's ALTA policy or any endorsements requested by the Developer, shall be borne by the Developer.

205. **Conditions to Closing.**

205.1 **Agency's Conditions to Closing.** Agency's obligation to execute the Agency Deed and convey the Site to Developer pursuant to the Agency Deed is subject to the fulfillment or waiver by Agency of each and all of the conditions precedent (a) through (f), inclusive, described below ("Agency's Conditions Precedent"), which are solely for the benefit of Agency, and

which shall be fulfilled or waived by the time provided in the Schedule of Performance for satisfaction of the Agency's Conditions Precedent:

(a) **Execution of Documents.** Developer shall have executed and delivered to the Escrow Holder for delivery to Agency upon recordation the Agency Deed and the CC&Rs and any other documents required hereunder for the Closing.

(b) **Payment of Funds.** Prior to Closing, Developer shall have paid the cash portion of the Purchase Price and all required costs of Closing into the Agency Escrow in accordance with Sections 201 and 202 hereof.

(c) **Owner's Title Policy.** The Title Company shall have agreed to issue to the Developer the Title Policy for the Site, in accordance with Section 204 hereof.

(d) **Environmental Condition.** Agency shall not have elected to terminate this Agreement pursuant to Section 208.2 hereof.

(e) **Developer Confirmation.** The Agency shall have received written confirmation from the Developer that the Developer's Conditions to Closing have been satisfied or waived, excepting that the requirement for a title policy may not be waived.

(f) **No Default, Representations and Warranties.** Developer shall not be in default in any of its obligations under the terms of this Agreement. All representations and warranties of Developer contained herein shall be true and correct in all material respects on and as of the Closing as though made at that time and all covenants of Developer which are required to be performed prior to the Closing shall have been performed by such date.

205.2 Developer's Conditions to Closing. Developer's obligation to execute and deliver to the Escrow Holder for recordation the Agency Deed and the CC&Rs and accept conveyance of the Site is subject to the fulfillment (or waiver by Developer) of each and all of the conditions precedent (a) through (g), inclusive, described below ("Developer's Conditions to Closing"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

(a) **Execution of Documents.** Agency shall have executed the Agency Deed, the CC&Rs, and any other documents required hereunder with respect to the conveyance of the Site to the Developer.

(b) **Review and Approval of Title.** Developer shall have reviewed and approved the condition of title as to the Site as provided in Section 203 hereof.

(c) **Condition of Site.** The Site shall be in substantially the same condition as it was on the Determination Date.

(d) **Title Policy.** The Title Company shall have agreed to issue the Title Policy in accordance with Section 204 hereof.

(e) **Environmental Condition.** Developer shall not have elected to terminate this Agreement pursuant to Section 208.2 or part (iv) of Section 603 hereof.

(f) **Approval of Studies.** Developer shall not have given City a notice of cancellation after completion of its due diligence investigation on or prior to the Determination Date as provided in Section 203.1 hereof.

(g) **No Default; Representations and Warranties.** Agency shall not be in default in any of its obligations under the terms of this Agreement and all representations and warranties of Agency contained herein shall be true and correct in all material respects.

206. **Representations and Warranties.**

206.1 **Agency Representations.** Agency represents and warrants to Developer as follows:

(a) **Authority.** Agency is a public body, corporate and politic, existing pursuant to the California Community Redevelopment Law (California Health and Safety Code Section 33000), which has been authorized to transact business pursuant to action of the City and, as to that portion of the Project Area located within unincorporated county territory, the County of San Bernardino. Agency has full right, power and lawful authority to convey the Site as provided herein and the execution, performance, and delivery of this Agreement by Agency has been fully authorized by all requisite actions on the part of Agency. The parties who have executed this Agreement on behalf of Agency are authorized to bind Agency by their signatures hereto.

(b) **Litigation.** To the best of the knowledge of the Executive Director, there are no actions, suits, material claims, legal proceedings, or any other proceedings pending affecting the Site or any portion thereof, at law or in equity before any court or governmental agency, domestic or foreign. The foregoing does not encompass comments concerning the environmental impact report or the land uses or activities which have not, to the knowledge of the Agency, given rise to litigation.

(c) **No Conflict.** To the best of Agency's knowledge, Agency's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Agency is a party or by which it is bound.

(d) **No Agency Bankruptcy.** Agency is not the subject of a bankruptcy proceeding.

Until the Closing, Agency shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 206.1 not to be true as of Closing, immediately give written notice of such fact or condition to Developer. Such exception(s) to a representation shall not be deemed a breach by Agency hereunder, but shall constitute an exception which Developer shall have a right to approve or disapprove if such exception would have an effect on the value and/or operation of the Site pursuant to the Agency Deed. If Developer elects to accept possession of the Site following disclosure of such information, Agency's representations and warranties contained herein shall be deemed to have been made as of the Closing, subject to such exception(s). If, following the disclosure of such information, Developer elects to not accept possession of the Site, then this Agreement shall automatically terminate, and neither party shall have any further rights, obligations or liabilities hereunder. The representations and warranties set forth in this Section 206.1 shall survive the Closing.

206.2 **Developer Representations.** Developer represents and warrants to Agency as follows:

(a) **Authority.** Developer is a duly organized California corporation that is doing business in California, is authorized to do business in California and is in good standing under the laws of the State of California. Developer has full right, power and lawful authority to purchase and accept possession to the Site and undertake all obligations as provided herein and the execution, performance and delivery of this Agreement by Developer has been fully authorized by all requisite actions on the part of the Developer. The parties who have executed this Agreement on behalf of Developer are authorized to bind Developer by their signatures hereto.

(b) **Litigation.** To the best of Developer's knowledge, there are no actions, suits, material claims, legal proceedings, or any other proceedings pending against Developer, at law or in equity before any court or governmental agency, domestic or foreign, which in any way would have a material effect on Developer's ability to perform its obligations under this Agreement. The foregoing does not encompass comments concerning the environmental impact report or the land uses or activities which have not, to the knowledge of the Developer, given rise to litigation.

(c) **No Conflict.** To the best of Developer's knowledge, Developer's execution, delivery, and performance of its obligations under this Agreement will not constitute a default or a breach under any contract, agreement or order to which Developer is a party or by which it is bound.

(d) **No Developer Bankruptcy.** Developer is not the subject of a bankruptcy proceeding.

Until the Closing, Developer shall, upon learning of any fact or condition which would cause any of the warranties and representations in this Section 206.2 not to be true as of Closing, immediately give written notice of such fact or condition to Agency. Such exception(s) to a representation shall not be deemed a breach by Developer hereunder, but shall constitute an exception which Agency shall have a right to approve or disapprove if such exception would have an effect on the development and/or operation of Conforming Activities on the Site. If Agency elects to proceed with the Closing following disclosure of such information, Developer's representations and warranties contained herein shall be deemed to have been made as of the Closing, subject to such exception(s). If, following the disclosure of such information, Agency elects to not close Escrow, then this Agreement and the Escrow shall automatically terminate, and neither party shall have any further rights, obligations or liabilities hereunder. The representations and warranties set forth in this Section 206.2 shall survive the Closing.

207. **Studies and Reports.** Developer shall have thirty (30) days from the date of this Agreement to conduct any and all studies, and to approve or disapprove, in Developer's reasonable discretion, the results of such studies, concerning the development or any other aspect or characteristic of the Site along with any engineering tests, soils, seismic and geologic reports with respect to the Site as Developer may elect to make or obtain (the "Studies").

Prior to the Closing, representatives of Developer shall have the right of access to all portions of the Site at all reasonable times for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement, including the investigation of the environmental condition of the Site pursuant to Section 208 hereof. Any preliminary work undertaken on the Site by Developer prior to the Closing shall be done at the sole expense of the Developer and only after written consent of Agency, which consent shall not be unreasonably withheld, and Developer's execution of a "Right of Entry Agreement", in a form to be provided by the Agency and its legal counsel, which protects Agency and the City against such entry. The Right of Entry Agreement shall provide that the

Developer shall save and protect Agency, City, and their respective officers, employees, agents, and representatives against any claims resulting from all preliminary work, access or use undertaken pursuant to this Section 207, and that, if requested by the Agency, the Developer shall, at its expense, restore the Site to the condition prior to the undertaking of work pursuant to this Section 207. Any preliminary work shall be undertaken only after securing any necessary permits from the appropriate governmental agencies.

208. **Condition of the Site.**

208.1 **Disclosure.** Agency hereby represents that to the best of the knowledge of the Executive Director, the Executive Director is not aware of and has not received any notice or communication from any government agency having jurisdiction over the Site notifying Agency of the presence of surface or subsurface zone Hazardous Materials in, on, or under the Site, or any portion thereof. "Best Knowledge," or "Best of Knowledge," as used herein, shall not impose a duty of investigation, and shall be limited to the Best Knowledge of the Executive Director of the Agency.

208.2 **Investigation of Site.** In addition to the foregoing, the Developer shall have the right, at its sole cost and expense, prior to the Determination Date, to engage its own environmental consultant (the "Environmental Consultant") to make such investigations as Developer deems necessary, including any "Phase 1" or "Phase 2" investigations of the Site, subject to the Developer's compliance with the requirements for entry upon the Site which are described in Section 203.1 and 207, and Agency shall be provided a copy of all reports and test results provided by Developer's Environmental Consultant promptly after receipt by the Developer of any such reports and test results.

Developer's approval, by the Determination Date, of the environmental condition of the Site shall be a Developer's Condition Precedent, as set forth in Section 205.2 hereof.

208.3 **No Further Warranties As To Site.** Except as otherwise provided herein, the physical condition and possession of the Site, is and shall be delivered from Agency to Developer in an "as-is" condition, with no warranty expressed or implied by Agency, including without limitation, the presence of Hazardous Materials or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder.

208.4 **Developer Precautions After Closing.** Upon and after the Closing, Developer shall take all necessary precautions to prevent the release into the environment of any Hazardous Materials which are located in, on or under the Site. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with commercially reasonable standards as respects the disclosure, storage, use, removal and disposal of Hazardous Materials.

208.5 **Developer Disclosures After Closing.** After the Closing, each party shall notify the other parties, and provide the other parties with a copy or copies, of all environmental permits, disclosures, applications, entitlements, or inquiries relating to the Site, including notices of violation, notices to comply, citations, inquiries, clean-up or abatement orders, cease and desist orders, reports filed pursuant to self-reporting requirements and reports filed or applications made pursuant to any Governmental Requirement relating to Hazardous Materials. Each party shall notify

the other parties, as soon as possible after each incident, as to any unusual or potentially important incidents with respect to the environmental condition of the Site. In the event of a release of any Hazardous Materials into the environment, Developer shall, as soon as possible after the release, furnish to Agency a copy of any and all reports relating thereto and copies of all correspondence with governmental agencies relating to the release. Upon request, each party shall furnish to the other parties a copy or copies of any and all other environmental entitlements or inquiries relating to or affecting the Site including, but not limited to, all permit applications, permits and reports including, without limitation, those reports and other matters which may be characterized as confidential. This Section 208.5 shall not be construed to require that any action be taken by the Agency upon receipt of notification by the Developer.

300. DEVELOPMENT OF THE SITE

301. **Scope of Development.** Following the Closing, the Developer shall develop the Site in accordance with the Scope of Development and the approved plans, drawings and documents for the Improvements. The Developer shall accomplish the development of the Improvements in conformity with all provisions of all applicable laws and in conformity with the Agency Deed and the CC&Rs.

302. **Land Use Approvals.** Before commencement of construction of the Improvements or other works of improvement upon the Site, Developer shall, at its own expense, secure or cause to be secured any and all land use and other entitlements, permits, and approvals which may be required for the Improvements by the City or any other governmental agency affected by or having jurisdiction over such construction or work. Developer shall, without limitation, apply for and secure, and pay when due all costs, charges and fees associated therewith, all permits and fees required by the City, County of San Bernardino, and other governmental agencies with jurisdiction over the Improvements. Execution of this Agreement does not constitute the granting of or a commitment to obtain or to assist in obtaining any required land use entitlements, or approvals required by the City.

303. **Cost of Improvements.** The cost of developing the Site, including without limitation architectural and design fees, construction and financing costs and all fees of the City and fees imposed by other governmental agencies shall be borne by the Developer.

304. **Waiver of Subrogation.** In connection with any insurance obtained by Developer, Developer hereby waives all rights to recover against Agency or City (or any officer, employee, agent or representative of Agency or City) for any loss incurred by Developer from any cause insured against or required by this Agreement to be insured against; provided, however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result. Developer and Developer shall use its best efforts to obtain only policies which permit the foregoing waiver of subrogation.

305. **Indemnity.** Developer shall defend (by counsel satisfactory to Agency), indemnify and save and hold harmless Agency and City and their officers, contractors, agents and employees from and against all claims, damages, demands, actions, losses, liabilities, costs and expenses including, without limitation, attorneys' fees and court costs (all of the foregoing are collectively, "Claims") arising from or relating to: (i) Developer's breach of this Agreement; (ii) a Claim, demand or cause of action that any person has or asserts against Developer; (iii) any act or omission of Developer, Developer, any contractor, subcontractor or material supplier, engineer, architect or other

person retained or employed by Developer with respect to the Site; or (v) Developer's ownership, occupancy or use of the Site after the Closing. Notwithstanding the foregoing, neither the Developer nor the Developer shall be obligated to indemnify the Agency with respect to the consequences of any act of gross negligence or willful misconduct of the Agency. Developer's and Developer's obligations under this Section 305 shall survive the issuance of the Certificate of Completion and termination of this Agreement; the requirements under this Section 305 are in addition to and do not limit the obligations of the Developer under the CC&Rs, the Agency Deed.

The Developer shall indemnify each of the City and the Agency from any real estate commissions or brokerage fees which may arise from this Agreement or the Site, including without limitation the acquisition of the Site by the Developer. The Developer represents that it has engaged no broker, agent, or finder in connection with this transaction, and the Developer agrees to hold each of the City and the Agency harmless from any claim by any broker, agent or finder in connection with this Agreement, the activities by the Developer, or the Site.

306. **Rights of Access.** Prior to the issuance of the Certificate of Completion, for purposes of assuring compliance with this Agreement, representatives of Agency shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Improvements so long as Agency representatives comply with all safety rules. Agency representatives shall, except in emergency situations, notify the Developer prior to exercising its rights pursuant to this Section 307. Rights of the Agency under this Section 306 shall not limit the access by City to enforce and implement building codes and other enactments.

307. **Compliance With Laws.** Developer shall carry out the design, construction and development of the Improvements in conformity with all applicable laws, including without limitation the Act, all applicable state labor standards and state labor laws relating to payment of prevailing wages, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, and Civil Code Section 51, *et seq.*

Labor Code Section 1720(b)(3) treats work performed under contract with certain public entities as a "public work" where the work is paid for in whole or in part with public funds, which payment may be accomplished by a transfer of an asset of value for less than a fair market value price. The Agency and the Developer that the transfer of the Site by the Agency to the Developer under this Agreement is being accomplished at a fair value price, a fair market value having been obtained by the Agency from an independent appraiser. Notwithstanding the foregoing, to the extent required by applicable law or as may otherwise be determined by Developer and its legal counsel, or as determined, opined, and/or ordered by the State Department of Industrial Relations (DIR), Developer and its contractors and subcontractors shall pay prevailing wages in compliance with Health and Safety Code Sections 33423 through 33426, and Labor Code Section 1770, *et seq.*, and shall be responsible for the keeping of all records required pursuant to Labor Code Section 1776, complying with the maximum hours requirements of Labor Code Sections 1810 through 1815, complying with the requirements of Labor Code Sections 1726 and 1781 (in such regard Developer acknowledges and agrees it is and shall remain the "awarding body" for the work of construction to complete the Improvements), and complying with all regulations and statutory requirements pertaining thereto. Neither the City nor the Agency makes any representations or warranties

whatsoever with respect to the applicability of the foregoing prevailing wage and public works requirements, and the Developer shall make its own determination as to such applicability.

Further, the Developer agree that all public works (as defined in California Labor Code Section 1720) performed pursuant to this Agreement (the "work"), if any and as applicable (as determined by Developer and its legal counsel or as determined, opined, or ordered by the State Department of Industrial Relations (DIR),) shall comply with the requirements of California Labor Code Sections 1770, *et seq.* In all bid specifications, contracts and subcontracts for the work, Developer (or its general contractor) and the Developer (or its general contractor) shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of worker needed to perform the work, and shall include such rates in the bid specifications, contract or subcontract. Such bid specifications, contract or subcontract must contain the following provision:

It shall be mandatory for the contractor to pay not less than the said prevailing rate of wages to all workers employed by the contractor in the execution of this contract. The contractor expressly agrees to comply with the penalty provisions of California Labor Code Section 1775 and the payroll record keeping requirements of California Labor Code Section 1771.

The Developer does hereby and shall indemnify and hold each of Agency and City harmless from and against any and all claims, demands, causes of action, obligations, damages, liabilities, costs and expenses, including reasonable attorneys' fees, that may be asserted against or incurred by Agency and/or City with respect to or in any way arising from Developer's and Developer's compliance with or failure to comply with applicable laws, including all applicable federal and state labor standards including without limitation the requirements of Labor Code Section 1720.

308. **Nondiscrimination in Employment.** The Developer certifies and agrees that all persons employed or applying for employment by it, its affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability.

309. **Taxes and Assessments.** Following the Closing, Developer shall pay prior to delinquency all ad valorem real estate taxes and assessments on the Site. Developer shall remove or have removed any levy or attachment made on the Site or any part thereof which is owned or leased by Developer, or assure the satisfaction thereof within a reasonable time, but in no event to exceed sixty (60) days. The Developer shall additionally defend, indemnify, and hold harmless the Agency and the City from and against any taxes, assessments, mechanic's liens, claims of materialmen and suppliers, or other claims by private parties in connection with (a) activities undertaken by the Developer or (b) the Site.

400. COVENANTS AND RESTRICTIONS

401. **Use Covenants.** The Developer shall operate on the Site only Conforming Activities, which shall include a physical facility which includes the Improvements and which conforms in all respects to all applicable regulations of federal, state and local agencies regulating the establishment or operations of credit unions or other Conforming Activities. The Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site

or any part thereof, that the Developer, the Developer and such successors and such assignees, shall on a continuous basis throughout the Covenant Period use the Site only for the conduct of Conforming Activities.

The Developer shall carry out all of its undertakings pursuant to this Agreement in conformity with the Redevelopment Plan, all applicable laws, and the CC&Rs. The Developer covenants to operate on the Site only Conforming Activities for a period of not less than the Covenant Period; this covenant is made for the benefit of the Agency and the City.

The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer themselves or any person claiming under or through them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land.

The Developer shall refrain from restricting the rental, sale or lease of the property on the basis of race, color, creed, religion, sex, marital status, handicap, national origin or ancestry of any person. All such deeds or leases as may hereafter be entered into by the Developer with respect to the Site will contain or be subject to substantially the nondiscrimination or nonsegregation clauses provided under Health and Safety Code Section 33436.

The Agency is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided, without regard to whether the Agency has been, remains or is an owner of any land or interest therein in the Site or in the Project Area. The Agency shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

In addition, continuing throughout the Covenant Period, all uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to this Agreement, shall be Conforming Activities and shall conform to the Redevelopment Plan and all applicable provisions of the City Municipal Code. The Developer on behalf of itself and its successors, assigns, and each successor in interest to the Site or any part thereof, hereby covenants and agrees, as more specifically set forth in the CC&Rs:

- (a) To use, devote, and maintain the Site and each part thereof, for the purposes and the uses specified in the Redevelopment Plan as in effect as of the Date of Agreement. The Site shall comply with all provisions of all applicable laws.
- (b) To maintain the improvements and landscaping on the Site in conformity to all applicable laws and to keep the Site free from any accumulation of debris and waste materials.
- (c) To operate on the Site only Conforming Activities.

402. **Nondiscrimination Covenants.** The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall the Developer nor the Developer themselves or any person claiming under or through them establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site or any portion thereof. The foregoing covenants shall run with the land.

The Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, religion, sex, marital status, ancestry or national origin of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(c) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises."

403. **Effect of Violation of the Terms and Provisions of this Agreement After Completion of Construction.** Each of the Agency and the City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own right and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the

land have been provided, without regard to whether Agency or City has been, remains or is an owner of any land or interest therein in the Site or in the Project Area. Each of the Agency and the City shall have the right, if the Agreement or any covenants in any agreement pursuant to this Agreement, including the Agency Deed and the CC&Rs, are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and such covenants may be entitled. The covenants contained in this Agreement shall remain in effect until the Closing except for the following:

(a) The covenants against discrimination, as set forth in Section 402, shall remain in effect in perpetuity; and

(b) The covenants contained in the Agency Deed and the CC&Rs shall remain in effect as set forth therein.

500. DEFAULTS AND REMEDIES

501. **Default Remedies.** Failure by any party to perform any action or covenant required by this Agreement within the time periods provided herein following notice and failure to cure as described hereafter, constitutes a "Default" under this Agreement. A party claiming a Default shall give written notice of Default to the other parties specifying the Default complained of. Except as otherwise expressly provided in this Agreement, the claimant shall not institute any proceeding against any other party, and the other party shall not be in Default if such party within thirty (30) days from receipt of such notice immediately, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy with diligence.

502. **Institution of Legal Actions.** In addition to any other rights or remedies and subject to the restrictions otherwise set forth in this Agreement, any party may institute an action at law or equity to seek specific performance of the terms of this Agreement, or to cure, correct or remedy any Default, to recover damages for any Default, or to obtain any other remedy consistent with the purpose of this Agreement. Such legal actions must be instituted in the Superior Court of the County of San Bernardino, State of California or in the United States District Court for the Central District of California.

503. **Termination by the Developer.** In the event that: (i) the Developer is not in default under this Agreement and Agency does not tender the conveyance of the Site pursuant to the Agency Deed in the manner and condition and by the date provided in this Agreement; or (ii) the Developer is not in default under this Agreement, the Developer has notified the Agency that the Site has Materially Adverse Conditions and the parties have not agreed as to the bearing of costs to remedy the Materially Adverse Conditions; or (iii) in the event of any default of Agency prior to the Closing which is not cured within the time set forth in Section 601 hereof, and any such failure is not cured within the applicable time period after written demand by the Developer, then the Developer may, at the option of the Developer, terminate this Agreement by Notice thereof to Agency. From the date of the receipt of Notice of Termination of this Agreement by the Developer to Agency and thereafter, this Agreement shall be deemed terminated and there shall be no further rights or obligations among the parties.

504. **Termination by Agency.** In the event that, prior to the time established in the Schedule of Performance for the satisfaction of the Agency's Conditions Precedent:

(a) Developer (or any successor in interest) assigns this Agreement or any rights therein or in the Site in violation of this Agreement and fails to cure such default within the time set forth in Section 601 hereof; or

(b) Developer does not fulfill one or more of Agency's Conditions Precedent to the Closing and such failure is not caused by Agency; or

(c) Developer notifies Agency that there are Materially Adverse Conditions on the Site;
or

(d) Developer fails to execute and deposit with the Escrow Holder for recording and delivery to the Agency the Agency Deed or the CC&Rs; or

(e) Developer is otherwise in default of this Agreement and fails to cure such default within the time set forth in Section 601 hereof;

then this Agreement and any rights of the Developer, the Developer, or any assignee or transferee with respect to or arising out of the Agreement or the Site, shall, at the option of Agency, be terminated by Agency by Notice thereof to the Developer. From the date of the Notice of termination of this Agreement by Agency to the Developer and thereafter this Agreement shall be deemed terminated, and there shall be no further rights or obligations among the parties, except that Agency may pursue any remedies it has hereunder.

505. **Acceptance of Service of Process.** In the event that any legal action is commenced against the Agency, service of process on the Agency shall be made by personal service upon the Executive Director or in such other manner as may be provided by law. In the event that any legal action is commenced against the Developer, service of process on the Developer shall be made in such manner as may be provided by law and shall be effective whether served inside or outside of California.

506. **Rights and Remedies Are Cumulative.** Except as otherwise expressly stated in this Agreement, the rights and remedies of the parties are cumulative, and the exercise by a party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by another party.

507. **Inaction Not a Waiver of Default.** Any failures or delays by either party in asserting any of its rights and remedies as to any Default shall not operate as a waiver of any Default or of any such rights or remedies, or deprive either such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

508. **Applicable Law.** The laws of the State of California shall govern the interpretation and enforcement of this Agreement.

509. Remedies of the Parties for Default After Passage of Title and Prior to Completion of Construction.

509.1 Termination and Damages. After conveyance of title to the Site and prior to the recordation of a Certificate of Completion, if the Developer, or the Agency defaults with regard to any of the provisions of this Agreement, any non-defaulting party shall give written notice of such default upon the defaulting party and any other parties in the manner set forth in Section 701. If the default is not cured by the defaulting party within thirty (30) days after the notice of default has been given by another party (or if not reasonably curable within such time, the defaulting party has commenced to cure and continued to do so with diligence until completion of the acts necessary to cure), the non-defaulting party may pursue legal action against the other party in connection with damages caused by such default. Nothing herein shall reduce or vitiate the rights and obligations of the parties to this Agreement.

509.2 Action for Specific Performance. If either the Developer or the Agency defaults under any of the provisions of this Agreement after the conveyance of title and prior to the recordation of a Certificate of Completion for the improvements and development to be made thereon, any non-defaulting party shall serve written notice of such default upon the defaulting party. If the default is not commenced to be cured by the defaulting party within thirty (30) days after service of the notice of default, any non-defaulting party at its option may institute an action for specific performance of the terms of this Agreement.

600. GENERAL PROVISIONS

601. Notices, Demands and Communications Between the Parties. Any approval, disapproval, demand, document or other notice ("Notice") which a party hereto may desire to give to another party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by Notice.

To Agency:	Loma Linda Redevelopment Agency 25541 Barton Road Loma Linda, California 92354 Attention: Executive Director
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with a copy to: (delivery of which copy shall not constitute notice to Agency)	Stradling Yocca Carlson & Rauth Attention: Mark J. Huebsch, Esq. 660 Newport Center Drive, Suite 1600 Newport Beach, California 92660
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To Developer:	La Loma Federal Credit Union 11131 Anderson Street Loma Linda, California 92354
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Any written notice, demand or communication shall be deemed received immediately upon receipt; provided, however, that refusal to accept delivery after reasonable attempts thereto shall

constitute receipt. Any notices attempted to be delivered to an address from which the receiving party has moved without notice shall be deemed to be effective on the fifth (5th) day from the date of the attempted delivery or deposit in the United States mail.

602. **Transfers of Interest in Agreement or in Site Prior to Closing.** Section 602, and all subsections of this Section 602, shall apply to transfers prior to the Closing. Any transfers occurring or proposed after the Closing are subject to Section 704 hereof and the provisions thereof of the Agency Deed (whichever is more restrictive in each case).

602.1 **Prohibition.** The qualifications and identity of the Developer are of particular concern to Agency. It is because of those qualifications and identity that Agency has entered into this Agreement with the Developer. For the period commencing upon the date of this Agreement and until the Closing (whereupon the CC&Rs and the Agency Deed shall govern as to permitted transfers), no voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this Agreement, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Site or the Improvements thereon without prior written approval of Agency, except as expressly set forth herein.

602.2 **Permitted Transfers.** Notwithstanding any other provision of this Agreement to the contrary, the Agency shall not withhold its approval of an assignment of this Agreement or conveyance of the Site, or any part thereof, in connection with any of the following:

(a) Any transfers to an entity or entities in which the Developer retains a minimum of fifty-one percent (51%) of the ownership or beneficial interest or retains management and control of the transferee entity or entities (provided that Agency shall determine whether such ownership, beneficial interest, management and control is maintained by the Developer).

(b) The conveyance or dedication of any portion of the Site to the City or other appropriate governmental agency, or the granting of easements or permits to facilitate construction of the Improvements.

In the event of a proposed assignment by Developer under subparagraph (a) above, Developer agrees that at least thirty (30) days prior to such assignment it shall give written notice to Agency including a request for approval of such assignment and satisfactory evidence that the assignee has assumed jointly with Developer the obligations of this Agreement. Requests for approval of assignment under this Section 603.2 may be made and processed one at a time or by means of approval of multiple assignees.

602.3 **Successors and Assigns.** All of the terms, covenants and conditions of this Agreement shall be binding upon the Developer and its permitted successors and assigns. Whenever the term "Developer" is used in this Agreement, such term shall include any other permitted successors and assigns as herein provided.

603. **Non-Liability of Officials and Employees of Agency.** No member, official, officer or employee of Agency or the City shall be personally liable to the Developer, or any successor in interest, in the event of any Default or breach by Agency or for any amount which may become due to the Developer or their respective successors, or on any obligations under the terms of this Agreement.

604. **Relationship Between Agency and Developer.** It is hereby acknowledged that the relationship between the Agency and the Developer is not that of a partnership or joint venture and that Agency and Developer shall not be deemed or construed for any purpose to be the agent of the other. Accordingly, except as expressly provided in this Agreement, including the Attachments hereto, the Agency shall not have any rights, powers, duties or obligations with respect to the development, operation, maintenance or management of the Improvements.

605. **Agency Approvals and Actions.** Whenever a reference is made herein to an action or approval to be undertaken by the Agency, the Executive Director is authorized to act on behalf of the Agency unless specifically provided otherwise or the law otherwise requires.

606. **Counterparts.** This Agreement may be signed in multiple counterparts which, when signed by all parties, shall constitute a binding agreement. This Agreement is executed in three (3) originals, each of which is deemed to be an original.

607. **Integration.** This Agreement contains the entire understanding between the parties relating to the transaction contemplated by this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged in this Agreement and shall be of no further force or effect. Each party is entering this Agreement based solely upon the representations set forth herein and upon such party's own independent investigation of any and all facts such party deems material. This Agreement includes pages 1 through 23 and Attachment Nos. 1 through 7, which Attachments are attached hereto and incorporated herein by reference, which constitutes the entire understanding and agreement of the parties, notwithstanding any previous negotiations or agreements among the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

608. **Titles and Captions.** Titles and captions are for convenience of reference only and do not define, describe, or limit the scope or the intent of this Agreement or of any of its terms. References to section numbers are to sections in this Agreement, unless expressly stated otherwise.

609. **Interpretation.** As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement shall be interpreted as though prepared jointly and equally by both parties.

610. **No Waiver; Modifications.** A waiver by any party of a breach of any of the covenants, conditions or agreements under this Agreement to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions of this Agreement. Any alteration, change, or modification of or to this Agreement, in order to become effective, shall be made in writing and in each instance signed on behalf of each party.

611. **Severability.** If any term, provision, condition, or covenant of this Agreement or its application to any party or circumstances shall be held, to any extent, invalid or unenforceable, the remainder of this Agreement, or the application of the term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected, and shall be valid and enforceable to the fullest extent permitted by law.

612. **Computation of Time.** The time in which any act is to be done under this Agreement is computed by excluding the first day (such as the day escrow opens), and including the last day, unless the last day is a holiday or Saturday or Sunday, and then that day is also excluded. The term "holiday" shall mean all holidays as specified in Section 6700 and 6701 of the California Government Code. If any act is to be done by a particular time during a day, that time shall be Pacific Time Zone time.

613. **Legal Advice.** Each party represents and warrants to the other the following: it has carefully read this Agreement, and in signing this Agreement, it does so with full knowledge of any right which they may have; it has received independent legal advice from its legal counsel as to the matters set forth in this Agreement, or has knowingly chosen not to consult legal counsel as to the matters set forth in this Agreement; and, it has freely signed this Agreement without any reliance upon any agreement, promise, statement or representation by or on behalf of the other party, or their respective agents, employees, or attorneys, except as specifically set forth in this Agreement, and without duress or coercion, whether economic or otherwise.

614. **Time of Essence.** Time is expressly made of the essence with respect to the performance by the Agency and the Developer of each and every obligation and condition of this Agreement.

615. **Time for Acceptance of Agreement by Agency.** This Agreement, when executed by the Developer and delivered to Agency, must be authorized, executed and delivered by the Agency on or before thirty (30) days after signing and delivery of this Agreement by the Developer or this Agreement shall be void, except to the extent that the Developer shall consent in writing to a further extension of time for the authorization, execution and delivery of this Agreement.

616. **No Third Party Beneficiaries Except for City.** Excepting only as to the City, which shall be deemed a third party beneficiary of this Agreement, nothing herein is intended to create any third party beneficiaries to this Agreement, and no person or entity other than the Agency and the Developer, and the permitted successors and assigns of either of them, shall be authorized to enforce the provisions of this Agreement.

WITNESS WHEREOF, the Agency and the Developer have signed this Agreement on the respective dates set forth below to be effective as of the Date of Agreement.

AGENCY:

LOMA LINDA REDEVELOPMENT AGENCY, a
public body, corporate and politic

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

Pamela Byrnes-O'Camb
Secretary

DEVELOPER:

LA LOMA FEDERAL CREDIT UNION, a California
corporation

By: _____
Todd Murdoch, President/CEO

By: _____
Arthur Walls, Secretary/Treasurer

ATTACHMENT NO. 1
COMBINED SITE MAP

[To Be Inserted]

ATTACHMENT NO. 2
SITE LEGAL DESCRIPTION

[To Come]

ATTACHMENT NO. 3

AGENCY DEED

RECORDING REQUESTED BY,
MAIL TAX STATEMENTS TO AND
WHEN RECORDED MAIL TO:

This document is exempt from payment of a recording
fee pursuant to government Code Section 27383.

GRANT DEED

For valuable consideration, receipt of which is hereby acknowledged,

The **LOMA LINDA REDEVELOPMENT AGENCY**, a public body, corporate and politic (the "Agency"), acting to carry out the Redevelopment Plan ("Redevelopment Plan") for the Loma Linda Redevelopment Project (the "Project"), under the Community Redevelopment Law of California, hereby grants to **LA LOMA FEDERAL CREDIT UNION**, a California corporation ("Developer"), the real property hereinafter referred to as the "Site" described in Exhibit A attached hereto and incorporated herein, subject to the existing easements, restrictions and covenants of record described there.

1. Conveyance in Accordance With Redevelopment Plan, Disposition and Development Agreement. The Site is conveyed in accordance with and subject to the Redevelopment Plan for the Loma Linda Redevelopment Project, as adopted and as subsequently amended, and a Disposition and Development Agreement entered into between the Agency and the Developer dated as of _____, 2006 (the "DDA"), a copy of which is on file with the Agency at its offices as a public record. The DDA generally requires the Developer to construct certain improvements (the "Improvements") and to conduct on the Site only a credit union, related uses and other uses as allowed from time to time under local enactments, excepting the following: adult uses; coin operated laundry; governmental offices except with the prior written approval of the Agency; arcade; casino; card clubs (with the allowable uses less those exceptions as so enumerated collectively constituting "Conforming Activities"), and other requirements as set forth therein. All capitalized terms used herein shall have the same meaning as set forth in the DDA unless the context requires otherwise.

2. Permitted Uses. The Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof, that upon the date of this deed

(the "Agency Deed") and during construction through completion of development and thereafter, the Developer shall devote the Site to the following uses:

(a) The Developer covenants and agrees for itself, its successors, assigns, and every successor in interest to the Site or any part thereof, that during construction and thereafter, the Developer shall devote the Site to the uses specified in the Redevelopment Plan and this Agency Deed for the periods of time specified therein. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to the DDA, shall conform to the DDA, the Redevelopment Plan and all applicable provisions of the City Municipal Code. The foregoing covenants shall run with the land.

(b) For the period commencing as of the date of recording of this Grant Deed and ending as of May 12, 2028, the Developer hereby covenants and agrees to devote the Site to uses allowable under the Redevelopment Plan and in conformity with the CC&Rs recorded of even date herewith.

3. Restrictions on Transfer. The Developer further agrees as follows:

(a) For the period commencing upon the date of this Agency Deed and until the issuance of a Certificate of Completion for all of the Improvements, no voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under the DDA or this Agency Deed, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the whole or any part of the Site or the improvements thereon, nor shall the Developer make any total or partial sale, transfer, conveyance, assignment, subdivision, refinancing or lease of the facilities being operated upon the Site, without the prior written approval of the Agency pursuant to Section 603 of the DDA.

(b) The Developer shall not place or suffer to be placed on the Site any lien or encumbrance other than mortgages, deeds of trust, or any other form of conveyance required for financing of the construction of the Improvements on the Site, and any other expenditures necessary and appropriate to develop the Site pursuant to the DDA, except as provided in the DDA.

(c) All of the terms, covenants and conditions of this Agency Deed shall be binding upon the Developer and the permitted successors and assigns of the Developer. Whenever the term "Developer" is used in this Agency Deed, such term shall include any other successors and assigns as herein provided.

4. Nondiscrimination. The Developer herein covenants by and for itself, its heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the Developer itself or any person claiming under or through Developer, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land.

The Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, religion, sex, marital status, ancestry or national origin of any person. All such deeds,

leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased."

(c) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises."

5. Violations Do Not Impair Liens. No violation or breach of the covenants, conditions, restrictions, provisions or limitations contained in this Agency Deed shall defeat or render invalid or in any way impair the lien or charge of any mortgage or deed of trust or security interest permitted by paragraph 4 of this Agency Deed; provided, however, that any subsequent owner of the Site shall be bound by such remaining covenants, conditions, restrictions, limitations and provisions, whether such owner's title was acquired by foreclosure, deed in lieu of foreclosure, trustee's sale or otherwise.

6. Covenants Run With Land. All covenants contained in this Agency Deed shall be covenants running with the land. All of Developer's obligations hereunder except as provided hereunder shall terminate and shall become null and void as of May 12, 2028. Every covenant contained in this Agency Deed against discrimination contained in paragraph 4 of this Agency Deed shall remain in effect in perpetuity.

7. **Covenants For Benefit of Agency.** All covenants without regard to technical classification or designation shall be binding for the benefit of the Agency, and such covenants shall run in favor of the Agency for the entire period during which such covenants shall be in force and effect, without regard to whether the Agency is or remains an owner of any land or interest therein to which such covenants relate. The Agency, in the event of any breach of any such covenants, shall have the right to exercise all the rights and remedies and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach.

8. **Revisions to Agency Deed.** Both Agency, its successors and assigns, and Developer and the successors and assigns of Developer in and to all or any part of the fee title to the Site shall have the right with the mutual consent of the Agency to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants, easements or restrictions contained in this Agency Deed without the consent of any tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Site. However, Developer and Agency are obligated to give written notice to and obtain the consent of any first mortgagee prior to consent or agreement between the parties concerning such changes to this Agency Deed. The covenants contained in this Agency Deed, without regard to technical classification, shall not benefit or be enforceable by any owner of any other real property within or outside the Project Area, or any person or entity having any interest in any other such realty. No amendment to the Redevelopment Plan shall require the consent of the Developer.

AGENCY:

LOMA LINDA REDEVELOPMENT AGENCY, a
public body, corporate and politic

By: _____

Dennis R. Halloway, Executive Director

ATTEST:

Pamela Byrnes-O'Camb, Agency Secretary

DEVELOPER:

LA LOMA FEDERAL CREDIT UNION, a
California corporation

By: _____

Todd Murdoch, President/CEO

By: _____

Arthur Walls, Secretary/Treasurer

EXHIBIT "A" TO ATTACHMENT NO. 3

LEGAL DESCRIPTION OF THE SITE

[To Be Inserted]

ATTACHMENT NO. 4

SCOPE OF DEVELOPMENT

The Developer shall develop the Site with improvements complementary to the existing adjacent credit union facilities on the Developer Property; it is expressly acknowledged that improvements may be limited to the development of surface parking facilities on the Site. Developer acknowledges that Developer shall be responsible for any preconstruction and construction activities necessary or appropriate in connection with the development of the Improvements. As part of the Improvements, the Developer shall satisfy any applicable mitigation measures set forth by City in connection with the environmental review of its proposed development activities.

The Developer shall commence and complete the Improvements by the respective times established therefor in the Schedule of Performance.

The Improvements shall conform to all applicable state laws and regulations and to local zoning, applicable provisions of the Municipal Code of the City of Loma Linda (the "Municipal Code"). The Developer shall commence and complete the Improvements by the respective times established therefor in the Schedule of Performance.

Effective as of the Closing, the Developer assumes all responsibility for surface and subsurface conditions at the Site, and the suitability of the Site for the Improvements. The Developer has not received or relied upon any representations of the Agency, the City, or their respective officers, agents and employees as to the Site and shall conduct any investigation of the Site as the Developer shall deem to be necessary or appropriate.

ATTACHMENT NO. 5

SCHEDULE OF PERFORMANCE

1. **Execution of Agreement by City and the Agency.** The City and the Agency shall consider this Agreement and if approved shall execute this Agreement and shall deliver one (1) copy thereof to the Developer.

Within thirty (30) days after the date of execution and submission of three (3) copies of this Agreement by the Developer.
2. **Preliminary Title Report.** The Agency shall provide a preliminary title report for the Site.

Within fifteen (15) days after the Date of Agreement.
3. **Submission of Design Development Drawings.** Developer shall submit to the City design development drawings for the Improvements.

Within ninety (90) days of the Date of Agreement.
4. **Obtaining of Building Permits.** Developer shall have accomplished all matters necessary for issuance of any required building and other permits needed to commence construction of the Improvements, other than payment of fees for such permits (which payment of fees may be accomplished by Developer before or after the Closing).

Not later the second anniversary of the Date of Agreement. Payment of fees is to occur prior to or concurrent with the earlier to occur of: (i) the commencement of construction of the Improvements, or (ii) the time established in this Schedule of Performance for the commencement of construction the Improvements.[move]
5. **Satisfaction of Conditions Precedent.** Developer shall satisfy all of Agency's Conditions Precedent and Agency shall satisfy Developer's Conditions Precedent.

On or before the ninetieth (90th) day following the Date of Agreement.
6. **Closing.** Closing occurs.

On or before June 1, 2006.
7. **Commencement of Construction of the Improvements.**

On or before the earlier to occur of June 1, 2007 or the first anniversary of the Date of Agreement.
8. **Completion of the Improvements.** Developer completes the Improvements.

On or before the earliest to occur of (i) the second anniversary of the Date of Agreement, (ii) June 1, 2008, or (iii) the first anniversary of commencement of construction of the Improvements.

**ATTACHMENT NO. 6
CERTIFICATE OF COMPLETION**

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
La Loma Federal Credit Union)
Attn: CR President)
[address to come])
Loma Linda, California 92354)
)

(Space Above for Recorder's Use Only)

This document is exempt from the payment of
a recording fee pursuant to Government Code
Section 27383.

CERTIFICATE OF COMPLETION

THIS CERTIFICATE OF COMPLETION (the "Certificate") is made by the **LOMA LINDA REDEVELOPMENT AGENCY**, a public body, corporate and politic (the "Agency"), in favor of **LA LOMA FEDERAL CREDIT UNION**, a California corporation (the "Developer"), as of the date set forth below.

RECITALS

A. Agency, the City of Loma Linda, a municipal corporation, and the Developer have entered into that certain Disposition and Development Agreement (the "DDA") dated as of _____, 2006 concerning the redevelopment of certain real property situated in the City of Loma Linda, California, as more fully described in Exhibit "A" attached hereto and made a part hereof (the "Property").

B. As referenced in Section 304 of the DDA, Agency is required to furnish the Developer or its successors with a Certificate of Completion upon completion of construction of the "Improvements" (as defined in Section 100 of the DDA), which Certificate is required to be in such form as to permit it to be recorded in the Recorder's Office of San Bernardino County. This Certificate is conclusive determination of satisfactory completion of the construction of the Improvements under the DDA.

C. Agency has conclusively determined that the construction and development of the Improvements has been satisfactorily completed.

NOW, THEREFORE, Agency hereby certifies as follows:

1. Agency does hereby certify that the Improvements have been fully and satisfactorily completed in full conformance with the DDA.

2. This Certificate shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance construction work on the Property, or any part thereof.

3. This Certificate shall not constitute evidence of Developer's compliance with those covenants in the DDA that survive the issuance of this Certificate nor shall this Certificate evidence compliance with the "CC&Rs" as entered into pursuant to the DDA.

4. This Certificate is not a Notice of Completion as referred to in California Civil Code Section 3093.

5. Nothing contained in this instrument shall modify in any other way any other provisions of the DDA, the Agency Deed or the CC&Rs.

IN WITNESS WHEREOF, Agency has executed this Certificate of Completion this _____ day of _____, 200__.

LOMA LINDA REDEVELOPMENT AGENCY, a
public body, corporate and politic

By: _____
Its: _____

ATTEST:

Secretary

EXHIBIT "A" TO ATTACHMENT NO. 6

LEGAL DESCRIPTION

[To Be Attached]

ATTACHMENT NO. 7
COVENANTS, CONDITIONS AND RESTRICTIONS

RECORDING REQUESTED BY:)
)
WHEN RECORDED RETURN TO AND)
MAIL TAX STATEMENTS TO:)
)
Loma Linda Redevelopment Agency)
25541 Barton Road)
Loma Linda, California 92354)
Attn: Executive Director)
)

(Space above for Recorder's Use.)

This document is exempt from the payment of a recording fee pursuant to Government Code Section 27383.

By: _____

REGULATORY AGREEMENT

These Covenants, Conditions and Restrictions, herein sometimes referred to as these "CC&Rs" or "Declaration" or "Regulatory Agreement" are made by the signatories hereto.

RECITALS

WHEREAS, each of the **LOMA LINDA REDEVELOPMENT AGENCY**, a public body, corporate and politic ("Agency"), the **CITY OF LOMA LINDA**, a municipal corporation ("City"), **LA LOMA FEDERAL CREDIT UNION**, a California corporation ("Developer") is a party to this Declaration. The Developer are sometimes collectively referred to herein as the "Declarants;" and

WHEREAS, the Agency and the Developer have entered into that certain Disposition and Development Agreement dated as of _____, 2006 (the "DDA") for the improvement, development and use of certain real property described in Exhibit "A" (to which these CC&Rs are attached) as the "Site," which DDA provides for the recordation of this Regulatory Agreement. The DDA is on file with the Agency as a public record and is deemed to be incorporated herein by this reference and any capitalized term not defined herein shall have the meaning established therefor in the DDA; and

WHEREAS, this Regulatory Agreement establishes a plan for the improvement, development and maintenance of the Site, for the benefit of the Project Area, as well as the rest of the City; and

WHEREAS, the Developer has held and continues to hold title to certain real property (the "Developer Property," as defined in the DDA) as of the date the Agency approved the DDA (the "Date of Agreement"); and

WHEREAS, the Agency shall have conveyed to the Developer certain real property (the "Site," as defined in the DDA); and

WHEREAS, the parties to this Regulatory Agreement have mutually agreed that the Developer shall cause the recordation of this Regulatory Agreement to affect and encumber the Site, which Site is described in Exhibit "A" hereto which is incorporated herein by reference); and

WHEREAS, Agency and Developer wish to employ this Regulatory Agreement to further govern the development, maintenance and use of the Site in conjunction and along with the DDA and to ensure that the Agency achieves its objectives under the DDA.

NOW, THEREFORE, the Agency and the Developer (as owner of real property interests described hereinabove) and the Developer, in the City, declare that the Site shall be held, transferred, encumbered, used, sold, conveyed, leased and occupied subject to the Covenants, Conditions and Restrictions hereinafter set forth expressly and exclusively for the use and benefit of said property, and the Agency and the City. Each and all of the restrictions, limitations, conditions, covenants, liens, reservations and charges herein contained shall run with the land and be recorded on the property title and shall be binding on Declarants, their grantees, successors, heirs, executors, administrators, devisees or assigns, and all subsequent owners of all or any part of the Combined Site.

ARTICLE I **DEFINITIONS**

The definitions provided herein shall be applicable to this Declaration and also to any amendment or supplemental Declaration (unless the context implicitly or explicitly shall prohibit), recorded against the Site pursuant to the provision of this Declaration.

Section 1. "Agency" means the Loma Linda Redevelopment Agency and its successors in interest.

Section 2. "Approved Project" means all improvements to the Site, including without limitation all improvements required to be developed by Developer under the DDA. All Improvements required to be accomplished by the Developer under the DDA must be completed in strict conformity with all specifications contained in or referred to in the DDA.

Section 3. "City" means and refers to the City of Loma Linda, a municipal corporation.

Section 4. "City Code" means and refers to the City of Loma Linda Municipal Code as revised from time to time.

Section 5. "Common Areas" means all areas on the Site that are open or accessible to all tenants and other occupants of the Combined Site (such as grounds, but excluding buildings).

Section 6. "Conforming Activities" means the operation of a credit union, including the origination or processing of loans and handling of deposits, together with parking and related

facilities, or other uses as allowed from time to time under the Redevelopment Plan and City zoning enactments, but in any event excepting the following: adult uses; coin operated laundry; governmental offices except with the prior written approval of the Agency; arcade; casino; card clubs all accomplished in compliance with the provisions of the DDA.

Section 7. “Covenant Period” means the period commencing on the date this Regulatory Agreement is recorded and ending as of May 12, 2028.

Section 8. “DDA” is defined in the second recital above.

Section 9. “Redevelopment Plan” means the Redevelopment Plan for the Loma Linda Redevelopment Project as initially adopted and as subsequently amended.

Section 10. “Regulatory Agreement” means this Regulatory Agreement and any amendments, modifications or supplements which may also be referred to herein as these “CC&Rs” or this “Declaration.”

Section 11. “Site” means that property described in Exhibit “A” hereto and is deemed to include real property and appurtenances, including all structures and other improvements thereon, and those hereafter constructed.

ARTICLE II

LAND USE RESTRICTIONS; IMPROVEMENTS

Section 1. Uses. The Developer shall develop the Approved Project on the Site in conformity with the DDA. Thereafter, the Site shall be operated as this Regulatory Agreement and devoted only to Conforming Activities. All uses conducted on the Site, including, without limitation, all activities undertaken by the Developer pursuant to the DDA, shall conform to all applicable provisions of the City Code and City approvals of the Approved Project

The Developer, on behalf of itself and its successors, assigns, and each successor in interest to the Site or any part thereof, hereby covenants and agrees:

(i) To use, devote, and maintain the Site and each part thereof, for the purposes and the uses specified in the Redevelopment Plan as in effect as of the effective date of the DDA. The Site shall comply with all provisions of the City Code.

(ii) To maintain the improvements and landscaping on the Site in conformity to all applicable laws and to keep the Site free from any accumulation of debris and waste materials.

(iii) To use, devote, and maintain the Site and each part thereof, for the purposes and the uses specified in the Redevelopment Plan as in effect as of the effective date of the DDA. The Site shall comply with all provisions of applicable laws; maintain the improvements and landscaping on the Site in conformity to all applicable laws and to keep the Site free from any accumulation of debris and waste materials and operate on the Site only Conforming Activities.

(iv) The Developer shall carry out all of its undertakings pursuant to this Agreement in conformity with the Redevelopment Plan, all applicable laws, and the Agreement Affecting Real Property. The Developer covenants to operate on the Site only Conforming Activities

for a period of not less than the Covenant Period; this covenant is made for the benefit of the Agency and the City.

(v) The Developer or its successors, assigns or transferee shall operate on the Site throughout the Covenant Period, only Conforming Activities. The Developer covenants and agrees for itself, its successors, its assigns, and every successor in interest to the Site or any part thereof, that the Developer, and such successors and such assignees, shall, during the Covenant Period, devote the Site only to Conforming Activities.

Section 2. Nondiscrimination. The Developer shall refrain from restricting the rental, sale or lease of the Site, or any portion thereof, on the basis of race, color, creed, religion, sex, marital status, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(1) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(2) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased."

(3) In contracts: "There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, ancestry or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises."

The covenants established in this Declaration and the deeds of conveyance for the Site shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency, its successors and assigns, the City and any successor in interest to the Site, together with any property acquired by the Developer pursuant to this Agreement, or any part

thereof. The covenants against discrimination as set forth in this Section 1 of Article II shall remain in effect in perpetuity.

Section 3. Compliance with Laws. The Developer shall comply with all applicable laws in connection with the development and use of the Site, including without limitation the California Community Redevelopment Law (Health and Safety Code section 33000, *et seq.*).

ARTICLE III

DUTIES OF DEVELOPER: SPECIFIC MAINTENANCE RESPONSIBILITIES

Section 1. Exterior Building Maintenance. All exterior, painted surfaces shall be maintained at all times in a clean and presentable manner, free from chipping, cracking and defacing marks. Any such defacing marks shall be cleaned or removed within a reasonable period of time as set forth herein.

Section 2. Front and Side Exteriors. The Developer shall at all times maintain the front exterior and yard in a clean, safe and presentable manner, free from defacing marks or any disrepair and any visible side exteriors. The Developer shall hire maintenance personnel to maintain and/or repair any front exterior or yard or visible side yard and exterior of any lot or building.

Section 3. Graffiti Removal. All graffiti, and defacement of any type, including marks, words and pictures must be removed and any necessary painting or repair completed by the later to occur of (i) seventy-two (72) hours of their creation or (ii) seventy-two (72) hours after notice to Developer.

Section 4. Driveways. All driveways must be paved and maintained with impervious material in accordance with the City Code. In addition, all water must be made to drain freely to the public part of the waterway without any pooling.

Section 5. Exterior Illumination. The Developer shall at all times maintain adequate lighting in all entrance ways and parking areas. Adequate lighting shall mean outdoor, night lighting designed and installed, which provides no less than one (1.0) foot candles in the parking areas and no less than one and one-half (1-1/2) foot candles in the walking areas or Common Areas and no less than 0.2 foot candles at the point of least illumination.

Section 6. Front Setbacks. All front setback areas that are not buildings, driveways or walkways shall be adequately and appropriately landscaped in accordance with minimum standards established by the City and shall be maintained by the Developer. The landscaping shall meet minimum standards set from time to time by the City.

Section 7. Trash Bins. All trash shall be collected and placed at all times in an enclosable bin to be placed in a designated refuse/trash bin area. The designated area shall be located so that the bin will, to the extent possible, be readily accessible from the street.

Section 8. Prohibited Signs. No sign of any kind shall be displayed to the public view on or from any portion of the Site without the approval of the City and appropriate City departments if any as required by the City Code.

ARTICLE IV

OBLIGATION TO MAINTAIN, REPAIR AND REBUILD

Section 1. Maintenance by Developer. The Developer shall, at its sole cost and expense, maintain and repair the Site and the improvements thereon keeping the same in a decent, safe and sanitary manner, and in good condition and making all repairs as they may be required by these CC&Rs and by all applicable City Code and Uniform Code provisions. The Developer shall also maintain the landscaping required to be planted in a healthy condition. If, at any time, Developer fails to maintain the Approved Project or any portion thereof, and said condition is not corrected after the expiration of forty-five (45) days from the date of written notice from the Agency, either the Agency or the City may perform the necessary maintenance and Developer shall pay such costs as are reasonably incurred for such maintenance. Payment shall be due within fifteen (15) days of receipt of an invoice from the Agency or the City.

Section 2. Damage and Destruction Affecting Site - Developer's Duty to Rebuild. If all or any portion of the Site and the improvements thereon is damaged or destroyed by fire or other casualty, it shall be the duty of the Developer to rebuild, repair or reconstruct said portion of the Site and/or the improvements in a timely manner which will restore it to Code compliance condition.

Section 3. Variance in Exterior Appearance and Design. In the event the Approved Project sustains substantial physical damage due to a casualty event, the Developer may apply to the City for approval to reconstruct, rebuild or repair in a manner which will provide different exterior appearance and lot design from that which existed prior to the date of the casualty.

Section 4. Time Limitation. Upon damage to the Site or the Approved Project or other improvements, the Developer shall be obligated to proceed with all due diligence hereunder and commence reconstruction within four (4) months after the damage occurs and complete reconstruction within twelve (12) months after damage occurs or complete demolition and vacate within three (3) months, unless prevented by causes beyond Developer's or Developer's reasonable control, in which event reconstruction shall be commenced at the earliest feasible time.

ARTICLE V

ENFORCEMENT

Section 1. Remedies. Breach of the covenants contained in the Declaration may be enjoined, abated or remedied by appropriate legal proceeding by the Agency or City.

This Declaration does not in any way infringe on the right or duties of the City to enforce any of the provisions of the City Code including, but not limited to, the abatement of dangerous buildings.

Section 2. Nuisance. The result of every act or omission whereby any of the covenants contained in this Declaration are violated in whole or in part is hereby declared to be and constitutes a nuisance, and every remedy allowable at law or equity, against a nuisance, either public or private, shall be applicable against every such result and may be exercised by any owner or its successors in interest, without derogation of the City's rights under law.

Section 3. Right of Entry. In addition to the above general rights of enforcement, the City shall have the right through its agents and employees, to enter upon any part of the project area

for the purpose of enforcing the California Vehicle Code, and the ordinances and other regulations of the City, and for maintenance and/or repair of any or all publicly owned utilities. In addition, the City has the right of entry at reasonable hours and upon and after reasonable attempts to contact Developer, on any lot to effect emergency repairs or maintenance which the Developer has failed to perform. Subsequent to sixty (60) days written notice to the Developer and Developer specifically outlining the Developer's or Developer's noncompliance, the City shall have the right of entry on the Site at reasonable hours to enforce compliance with this Declaration which the Developer has failed to perform.

Section 4. Costs of Repair. The costs borne by the City or Agency of any such repairs or maintenance emergency and/or non-emergency, shall become a charge for which Developer and Developer shall be responsible.

Section 5. Cumulative Remedies. The remedies herein provided for breach of the covenants contained in this Declaration shall be deemed cumulative, and none of such remedies shall be deemed exclusive.

Section 6. Failure to Enforce. The failure to enforce any of the covenants contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter.

Section 7. Enforcement and Nonliability. The City or Agency may from time to time make such efforts, if any, as it shall deem appropriate enforce and/or assist in enforcing this Declaration. However, neither the Agency nor the City will be subject to any liability for failure to affirmatively enforce any provision of this Declaration.

ARTICLE VI

GENERAL PROVISIONS

Section 1. Covenant Against Partition. By acceptance of its interest in the Site, the Developer shall be deemed to covenant for itself and for its heirs, representatives, successors and assigns, that it will not institute legal proceedings or otherwise seek to effect partition of its right and interest in the interest being conveyed to the Developer, or the burdens running with the land as a result of this Regulatory Agreement.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in all force and effect.

Section 3. Term. This Declaration shall run with and bind the interest of the Developer in the Site, and shall inure to the owner(s) of any property subject to this Declaration, such owner's legal representatives, heirs, successors and assigns, and as provided in Article VI, Sections 3 and 4. This Declaration shall be enforceable each of the Agency and by the City, for a term equal to the Covenant Period, provided; however, that the covenants regarding nondiscrimination set forth in Section 2 of Article II of this Declaration shall remain in effect (and shall be enforceable by the Agency or the City) for perpetuity.

Section 4. Limitation on Liability of Developer. If Developer sells or conveys its interests in the Site after completion of the Improvements and issuance of a Certificate of Completion, all terms and conditions of these CC&Rs shall remain in full force and effect, provided

that upon conveyance of all of Developer's interests in the Site, Developer shall have no further liability under these CC&Rs for any violations thereof arising or occurring after such transfer of Developer's interests, but its transferees, buyers or conveyees shall be liable under these CC&Rs to the Agency and the City.

Section 5. Construction. The provisions of this Declaration shall be construed to require the development of facilities and the operation of only Conforming Activities as provided under the DDA.

Section 6. Amendments. This Declaration may be amended only by the written agreement of the Developer, the Agency and the City.

Section 7. Encroachments. None of the rights and obligations of the Developer created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of Developer if said encroachment occurs due to the willful conduct of said Developer.

Section 8. Notices. Any notice permitted or required to be delivered as provided herein to Developer shall be in writing and may be delivered either personally or by certified mail. Notice to the Agency shall be made by certified mail to the Executive Director or his designee at 25541 Barton Road, Loma Linda, California 92354 (with a copy to Stradling Yocca Carlson & Rauth, Attention: Mark J. Huebsch, Esq., 660 Newport Center Drive, Suite 1600, Newport Beach, California 92660), and shall be effective upon receipt. Notice to Developer shall be made by certified mail to La Loma Federal Credit Union, a California corporation, Attention: CR President, [address to come], Loma Linda, California 92354, and shall be effective upon receipt. Such address may be changed from time to time by notice in writing.

[signatures begin on the following page]

LOMA LINDA REDEVELOPMENT AGENCY,
a public body, corporate and politic

Dated: _____

By: _____
Dennis R. Halloway, Executive Director

ATTEST:

By: _____
Pamela Byrnes-O'Camb, Secretary

LA LOMA FEDERAL CREDIT UNION,
a California corporation

By: _____
Todd Murdoch, President/CEO

By: _____
Arthur Walls, Secretary/Treasurer

EXHIBIT A
LEGAL DESCRIPTION

[To Come]